

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

ALICE F. ADAMS, ET AL.,

PLAINTIFFS,

VS.

CIVIL ACTION NO. 4:02CV00054-P-B

CITIFINANCIAL, INC., ET AL.,

DEFENDANTS.

ORDER

This matter comes before the court upon Defendant's Motion for Summary Judgment as to Plaintiff Cleo Butler Based Upon Prior Bankruptcy Proceedings [136-1]. Upon due consideration of the motion – no response having been filed – the court finds as follows, to-wit:

Cleo Butler filed a Chapter 7 bankruptcy petition on February 14, 2002. On February 20, 2002, Butler, along with hundreds of other plaintiffs, filed the instant action. Along with her Chapter 7 petition, Butler filed schedules of assets but failed to disclose her claims giving rise to the lawsuit she filed six days later. On the day she affixed her signature to the bankruptcy schedules, Butler certainly knew of her claims against Citifinancial, Inc.

In the instant motion for summary judgment, Citifinancial argues that Butler's claims should be dismissed with prejudice under the doctrine of judicial estoppel which is "a common law doctrine by which a party who has assumed one position in his pleadings may be estopped from assuming an inconsistent position." *Brandon v. Interfirst Corp.*, 858 F.2d 266, 268 (5th Cir. 1988). This doctrine is meant "to protect the integrity of the judicial process" by "prevent[ing] parties from playing fast and loose with the courts to suit the exigencies of self interest." *Id.*

The present circumstances are especially well suited for application of the judicial estoppel doctrine.

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) Defendant's Motion for Summary Judgment as to Plaintiff Cleo Butler Based Upon Prior Bankruptcy Proceedings [136-1] is hereby **GRANTED**; accordingly,

(2) The claims of Cleo Butler are **DISMISSED WITH PREJUDICE**.

SO ORDERED this the 8th day of September, A.D., 2005.

/s/ W. Allen Pepper, Jr. _____
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE